

The tax code classifies this \$150 as OID. The \$150 of OID serves the same function as the stated annual interest of \$100, 10 percent of \$1,000. As such, the \$150 of OID is an additional cost to the corporation in borrowing \$850 from the investor, and it is additional compensation that the corporation pays to the lender for lending that amount. The only differences to the parties are that the corporation is not required to pay the OID of \$150 until the bond matures and that the investor does not receive the discount in cash until then, unless the bond is sold in the interim.

As I noted earlier, the OID rules prevent borrowers from deducting the entire amount of "interest" they pay to a borrower on a loan. Specifically, in the previous example, although the parties treat the loan principle as being \$850, the application of the OID rules treats the loan as \$1,000, which is significant because it means the IRS classifies the \$150 of OID as not being interest. In turn, the borrower cannot deduct this \$150 payment to the borrower because it is a return of principle on the loan rather than interest.

Consequently, applying OID rules to student loans would have several negative effects. First, with respect to students, they would not be able to deduct the entire amount of "interest" they pay to their lender. In general, whereas the tax code generally permits students to deduct student loan interest, subject to certain limitations, it does not permit taxpayers to deduct OID. The Treasury regulations, then, will reduce the cash flow of students who are repaying student loans by limiting their student loan interest deduction.

In addition, applying the OID rules will have an enormous impact on the compliance burden. Indeed, the interaction of the OID rules and the loan provisions of the Higher Education Act greatly magnifies the complexity of rules that lenders must follow. As such, lenders and servicers will be forced to create accounting systems, at enormous expenses that ultimately will be passed on to student borrowers, to enable them to track and report the origination fees and capitalized interest in accordance with the OID rules. Furthermore, given that there is no track record of applying the OID rules to student lenders, there is no guarantee that they can preform these tasks accurately.

Congress enacted the OID rules to prevent taxpayers, mostly large corporations, from altering the terms of loan agreements to claim inflated interest deduction. Clearly, applying them to student loans is unreasonable and frankly unintended.

To remedy this problem, my legislation would permit lenders to account for the OID treatment of student loans under the "immediate accrual method, which colloquially is referred to as the "bucket method." Under this approach, the origination fee would accrue as soon as it is charged to or paid by the borrower, and capitalized interest

would accrue under the terms of the promissory note. Accrued origination fee and capitalized interest would go into a "bucket" as soon as they accrue, until such time as the borrower begins to make payments on the loan. Amounts in the "bucket" would be applied against principal payments until the bucket is empty. Capitalized interest and origination fees would be reported to and deductible by the eligible taxpayer in the year in which they are paid.

My legislation would, as I stated, provide for a simpler, more borrower-friendly method for reporting and deducting capitalized interest and origination fees in connection with qualified education loans. Consequently, it would not reduce the need to engage in the burdensome task of calculating the OID on loans, and the student borrowers would be able to deduct more of the interest they pay.

This bill is good policy and common sense. Senator SCHUMER and I look forward to working with Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS in seeking swift action to resolve this issue.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2423. Mr. ALLARD proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 2424. Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) proposed an amendment to the bill S. 1042, *supra*.

SA 2425. Mr. MCCAIN (for himself, Mr. WARNER, Mr. LEVIN, Mr. LEAHY, Mr. HAGEL, Mr. DURBIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1042, *supra*.

SA 2426. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, *supra*; which was ordered to lie on the table.

SA 2427. Mr. REED (for Mr. LEVIN (for himself, Mr. REED, Mr. KERRY, Mr. FEINGOLD, and Mr. LAUTENBERG)) proposed an amendment to the bill S. 1042, *supra*.

SA 2428. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1042, *supra*; which was ordered to lie on the table.

SA 2429. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1042, *supra*; which was ordered to lie on the table.

SA 2430. Mr. LEVIN (for himself, Mr. REED, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, *supra*.

SA 2431. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, *supra*; which was ordered to lie on the table.

SA 2432. Mr. INHOFE (for himself, Mr. STEVENS, Mr. ROBERTS, Mr. SESSIONS, Mr. EN-

SIGN, Mr. GRAHAM, Mr. THUNE, and Mr. KYL) proposed an amendment to the bill S. 1042, *supra*.

TEXT OF AMENDMENTS

SA 2423. Mr. ALLARD proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. RETIREMENT BENEFITS FOR WORKERS AT ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE, COLORADO.

(a) **PROGRAM AUTHORIZED.**—Subject to the availability of funds under subsection (d), the Secretary of Energy shall establish a program for the purposes of providing health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado (in this section referred to as the "Site"), who do not qualify for such benefits because the physical completion date was achieved before December 15, 2006.

(b) **ELIGIBILITY FOR BENEFITS.**—A worker at the Site is eligible for health, medical, and life insurance benefits under the program described in subsection (a) if the employee—

(1) was employed by the Department of Energy, or by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at the Site on September 29, 2003; and

(2) would have achieved applicable eligibility requirements for health, medical, and life insurance benefits as defined in the Site retirement benefit plan documents if the physical completion date had been achieved on December 15, 2006, as specified in the Site project completion contract.

(c) **DEFINITIONS.**—In this section:

(1) **HEALTH, MEDICAL, AND LIFE INSURANCE BENEFITS.**—The term "health, medical, and life insurance benefits" means those benefits that workers at the Site are eligible for through collective bargaining agreements, projects, or contracts for work scope.

(2) **PHYSICAL COMPLETION DATE.**—The term "physical completion date" means the date the Site contractor has completed all services required by the Site project completion contract other than close-out tasks and services related to plan sponsorship and management of post-project completion retirement benefits.

(3) **PLAN SPONSORSHIP AND PROGRAM MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS.**—The term "plan sponsorship and program management of post-project completion retirement benefits" means those duties and responsibilities that are necessary to execute, and are consistent with, the terms and legal responsibilities of the instrument under which the post-project completion retirement benefits are provided to workers at the Site.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—Of the amounts authorized to be appropriated to the Secretary of Energy in fiscal year 2006 for the Rocky Flats Environmental Technology Site, \$15,000,000 shall be made available to the Secretary to carry out the program described in subsection (a).

SA 2424. Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms.

CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after “to whom section 1448 of this title applies” the following: “(except in the case of a death as described in subsection (d) or (f) of such section)”; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: “The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking “October 1, 2008” and inserting “October 1, 2005”.

SA 2425. Mr. MCCAIN (for himself, Mr. WARNER, Mr. LEVIN, Mr. LEAHY, Mr. HAGEL, Mr. DURBIN, and Mr. KENNEDY) proposed an amendment to the

bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1074. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDITION.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 2426. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, after line 23, insert the following:

SEC. 733. CENTENNIAL DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—

(1) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall implement a demonstration project (referred to in this section as the “Centennial Demonstration Project”) with a non-profit health care entity (referred to in this section as the “partner”) to permit employees of the Department of Defense and of the partner to jointly staff and provide health care services to military personnel and civilians at a Department of Defense military treatment facility.

(2) TERM OF THE PROJECT.—The Secretary shall carry out the Centennial Demonstration Project for a 5-year period.

(b) PURPOSES.—The purposes of the Centennial Demonstration Project shall be to evaluate whether jointly staffing a Department of Defense military treatment facility with employees of the Department of Defense and of the partner—

(1) improves the quality of care provided to military personnel through the use of supplemental civilian medical resources that are not otherwise available at the military treatment facility;

(2) enhances the economical use of the military treatment facility by permitting excess capacity within the facility to be used by civilian medical personnel for civilian care; and

(3) provides military medical personnel additional training opportunities involving the care of civilians at the military treatment facility.

(c) LIMITATION ON SERVICES TO CIVILIANS BY MILITARY PERSONNEL.—The Secretary of Defense may not permit any civilian to receive medical services provided by military medical personnel under the Centennial Demonstration Project unless the Secretary submits to the Armed Services Committee of the Senate and the Armed Service Committee of the House of Representatives a report that includes descriptions of—

(1) the services to be provided by the military medical personnel to civilians under such Project;

(2) any benefits associated with providing such services that enhance the readiness and proficiency of the military personnel participating in such Program; and

(3) the mechanisms for recovering the costs associated with the provision of such services.

(d) FINANCIAL ARRANGEMENTS.—The Secretary of Defense is authorized to enter into appropriate financial arrangements with the partner to ensure that the Department of Defense is compensated for any care provided to civilians under the Centennial Demonstration Project. The Secretary of Defense shall determine the terms of such arrangements after evaluating—

(1) the value of the services to be provided by the partner under such Project; and

(2) the value of the use of military treatment facility by the partner during such Project.

(e) LIABILITY.—Nothing in this section may be construed to modify any law regarding the liability of civilian or military medical personnel for medical services rendered to either civilian or military personnel.

(f) REPORTS.—

(1) REQUIREMENT.—The Secretary of Defense and the appropriate representative of the partner shall jointly prepare and submit to Congress 2 reports on the Centennial Demonstration Project and its impact on the military treatment facility where such Project is implemented.

(2) SCHEDULE.—

(A) FIRST REPORT.—The first report required by paragraph (1) shall be submitted

not later than 4 years after the date of the enactment of this Act.

(B) **SECOND REPORT.**—The second report required by paragraph (1) shall be submitted not later than 5 years after the date of the enactment of this Act.

SA 2427. Mr. REED (for Mr. LEVIN (for himself, Mr. REED, Mr. KERRY, Mr. FEINGOLD, and Mr. LAUTENBERG)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) **INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.**—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by \$50,000,000.

(b) **OFFSET.**—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by \$50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by \$30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by \$20,000,000.

SA 2428. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . IMPROVE THE RADIATION DOSE RECONSTRUCTION PROGRAM.

(a) **IN GENERAL.**—In implementing the Energy Employees Occupational Illness Compensation Program Act, the Advisory Board on Radiation and Worker Health shall, not later than 90 days after the enactment of this Act—

(1) in order to correctly identify quality problems through the audit process of the Advisory Board, promptly develop a formal comment resolution process including the tracking of findings and issues; and

(2) review each site profile and each dose reconstruction audit report provided by the Advisory Board's audit contractor within 90 days of the date on which such audit reports are received.

(b) **CORRECTIVE ACTION PLAN.**—The National Institute on Occupational Safety and Health shall, in response to recommendations from the Advisory Board on Radiation and Worker Health, prepare and submit a corrective action plan within 90 days of receiving a recommendation from the Advisory Board on items covered under subsection

(a)(2). Such plans shall contain specific deadlines for implementing such recommendations to the extent that the Director concurs with the recommendations of the Advisory Board.

SA 2429. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXXI, add the following:

SEC. ____ . PROHIBITION ON CONTRACT FOR WORK AT HANFORD SITE, WASHINGTON, UNLESS CONTRACTOR MAKES EMPLOYER CONTRIBUTIONS TO HANFORD SITE PENSION PLAN FOR PERIOD OF CONTRACT.

(a) **PROHIBITION.**—The Secretary of Energy may not, after the date of the enactment of this Act, enter into a contract for the work at the Hanford Site, Washington, specified in subsection (b) unless the contract includes terms requiring the contractor to make all applicable employer contributions to the Hanford Contractors Multi-Employer Pension Plan for employees covered by such contract over the entire period of the contract.

(b) **COVERED WORK.**—The work at the Hanford Site specified in this subsection is work for projects or activities as follows:

- (1) The River Corridor Closure Project.
- (2) The Fast Flux Test Facility (FFTF) Closure Project.
- (3) The 222-S Laboratory.
- (4) Any other project or activity at the Hanford Site.

SA 2430. Mr. LEVIN (for himself, Mr. REED, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV—NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by

the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to—

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the "Commission").

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) **MEMBERS.**—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) **QUALIFICATIONS; INITIAL MEETING.**—

(1) **POLITICAL PARTY AFFILIATION.**—Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES.**—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS.**—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) **MEETINGS; QUORUM; VACANCIES.**—

(1) **INITIAL MEETING.**—The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) **MEETINGS.**—After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) QUORUM.—Six members of the Commission shall constitute a quorum.

(4) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) IN GENERAL.—The purposes of the Commission are to—

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as “detainees”), including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to—

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission’s findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) UTILIZATION OF OTHER MATERIALS.—The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to—

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission’s view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that ascertains relevant facts and circumstances relating to—

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to

counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory au-

thority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION AND MATERIALS FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) COOPERATION OF AGENCIES.—The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) FURNISHING OF MATERIALS.—The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) ACCESS TO INFORMATION AND MATERIALS.—No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) ASSISTANCE FROM PARTICULAR FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission’s functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) **COMPENSATION.**—Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) **IN GENERAL.**—

(1) **APPOINTMENT AND COMPENSATION.**—The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) **PERSONNEL AS FEDERAL EMPLOYEES.**—

(A) **TREATMENT.**—The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) **EXCEPTION.**—Subparagraph (A) shall not apply to members of the Commission.

(b) **DETAILEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) **CONSULTANT SERVICES.**—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) **IN GENERAL.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) **PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.**—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) **PUBLIC HEARINGS.**—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) **INTERIM REPORTS.**—The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) **FINAL REPORT.**—Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) **TERMINATION.**—

(1) **IN GENERAL.**—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.**—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission to carry out this section \$2,500,000.

(b) **DURATION OF AVAILABILITY.**—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2431. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. ____ INAPPLICABILITY TO MEMBERS OF THE ARMED FORCES RECUPERATING IN MILITARY MEDICAL TREATMENT FACILITIES OF LIMITATION ON RECEIPT OF CERTAIN GIFTS.

Notwithstanding any other provision of law, regulations of the Department of Defense prohibiting members of the Armed Forces from receiving a gift from an approved charitable organization in an amount in excess of \$20 shall not apply to a member of the Armed Forces who is recuperating in a military medical treatment facility.

SA 2432. Mr. INHOFE (for himself, Mr. STEVENS, Mr. ROBERTS, Mr. SESSIONS, Mr. ENSIGN, Mr. GRAHAM, Mr. THUNE, and Mr. KYL) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year

for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. ____ BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) **AUTHORITY.**—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) **TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.**—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) **AVAILABILITY OF FUNDS.**—The Secretary of Defense may, at the request of the Secretary of State, support partnership security capacity building as authorized under subsection (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other Federal agency. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building provided by the Department of Defense under this section may not exceed \$750,000,000 in any fiscal year.

(d) **CONGRESSIONAL NOTIFICATION.**—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be submitted not less than 7 days before the provision of such partnership security capacity building.

(e) **COMPLEMENTARY AUTHORITY.**—The authority to build partnership security capacity under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

(f) **MILITARY AND SECURITY FORCES DEFINED.**—In this section, the term "military and security forces" includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

SEC. ____ SECURITY AND STABILIZATION ASSISTANCE.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, upon a request from the Secretary of State and upon a determination by the Secretary of Defense that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) **AVAILABILITY OF FUNDS.**—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State, or to any other Federal agency, to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) **LIMITATION.**—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed \$200,000,000.

(d) **COMPLEMENTARY AUTHORITY.**—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(e) **EXPIRATION.**—The authority in this section shall expire on September 30, 2006.

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Major Ken Casey, an Army fellow on Senator CHAMBLISS' staff, be granted floor privileges for the duration of the consideration of S. 1052, the fiscal year 2005 national Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Carlos Hill, an Air Force congressional fellow on my staff, during consideration of S. 1942.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 107-273, announces the appointment of the following individual to serve as a member of the Antitrust Modernization Commission: Makan Delrahim, of the District of Columbia.

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly in Copenhagen, Denmark, November 11-14, 2005 during the 109th Congress: The Honorable TRENT LOTT of Mississippi; The Honorable WAYNE ALLARD of Colorado; The Honorable JEFF SESSIONS of Alabama; The Honorable JIM BUNNING of Kentucky, and The Honorable GEORGE VOINOVICH of Ohio.

MEASURE PLACED ON THE CALENDER—S. 1960

Mr. WARNER. Mr. President, under rule XIV, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (S. 1960) to protect the health and safety of all athletes, to promote the integrity of professional sports by establishing minimum standards for the testing of steroids and other performance-enhancing substances and methods by professional sports leagues, and for other purposes.

Mr. WARNER. In order to place the bill on the calendar under provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar pursuant to Rule XIV.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nominations 422, 423, 427, 429, 430, 431 and 434 and all nominations on the secretary's desk.

I further ask unanimous consent the nominations be considered en bloc, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Jeffrey Thomas Bergner, of Virginia, to be an Assistant Secretary of State (Legislative Affairs).

James Caldwell Cason, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Shana L. Dale, of Georgia, to be Deputy Administrator of the National Aeronautics and Space Administration.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Orlando J. Cabrera, of Florida, to be an Assistant Secretary of Housing and Urban Development.

EXECUTIVE OFFICE OF THE PRESIDENT

Katherine Baicker, of New Hampshire, to be a Member of the Council of Economic Advisers.

Matthew Slaughter, of New Hampshire, to be a Member of the Council of Economic Advisers.

DEPARTMENT OF JUSTICE

Wan J. Kim, of Maryland, to be an Assistant Attorney General.

IN THE COAST GUARD

PN844 COAST GUARD nominations (9) beginning David K. Almond, and ending JEFFREY SAINTE, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN879 COAST GUARD nominations (56) beginning Steven J. Andersen, and ending Vann J. Young, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN957-1 COAST GUARD nomination of Louvenia A. McMillan, which was received by the Senate and appeared in the Congressional Record of October 6, 2005.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN797 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (7) beginning John W. Humphrey Jr., and ending Mark H. Pickett, which nominations were received by the Senate and appeared in the Congressional Record of July 29, 2005.

PN935 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (14) beginning Melissa M. Ford, and ending Jamie S. Wasser, which nominations were received by the Senate and appeared in the Congressional Record of September 28, 2005.

NOMINATION OF WAN J. KIM

Mr. DURBIN. Mr. President, the Assistant Attorney General for Civil Rights is the face of civil rights law enforcement in America. I will support Wan Kim's nomination for this important post.

For nearly 50 years, the Justice Department's Civil Rights Division has enforced Nation's civil rights laws and combated racism, discrimination, and other civil rights abuses. And during the past 50 years, our Nation has made important strides in the fight for civil rights. The recent death of Rosa Parks is a reminder of how far we have come, and of the courageous acts it took to get here.

I am concerned, however, about the Bush Administration's commitment to civil rights law enforcement and especially voting rights. As Chief Justice Roberts testified at his confirmation hearing, the right to vote is the "preservative" right of all other rights. Without that fundamental right, citizens are voiceless and powerless.

At his nomination hearing, I asked Wan Kim about the Civil Rights Division's August 26 preclearance of a voter identification law in the state of Georgia that is discriminatory and "a national disgrace," in the words of the New York Times. The law requires people without a driver's license—a group disproportionately consisting of the poor, the elderly, and minorities to pay \$20 or more for a State ID card in order to vote. There isn't a single place in the entire city of Atlanta where the cards are sold. The Georgia law aims to be an anti-fraud measure, but the Secretary of State in Georgia maintains there has not been a proven case of voter fraud in that state in nearly a decade.

Although Mr. Kim has been the Deputy Assistant Attorney General in the Civil Rights Division for over 2 years, he said he has not supervised voting rights issues and does not have an opinion about whether the Georgia law should have been precleared. That's a fair answer.

But I hope Mr. Kim reads a decision handed down just a few days after his nomination hearing by a Federal judge in Georgia, who enjoined the law and ruled that it appeared to be unconstitutional. The judge wrote that the Georgia law "constitutes a poll tax." Just last week, this ruling was affirmed by a three-judge panel of the conservative U.S. Court of Appeals for the 11th Circuit. Two of the three judges on the panel were appointed by President George H.W. Bush.

I am also concerned that the Bush administration has not brought a single voting rights lawsuit alleging racial discrimination against African Americans. Perhaps even more troubling is the fact that earlier this year the Justice Department filed its first case ever under the Voting Rights Act alleging discrimination in voting